

Did You Know.....

By Clem Dougherty

...that all but a few of the so-called Spanish grants of California land were not Spanish at all? Yes it's true. The vast majority of the land grants were really Mexican land grants granted by the Mexican governors after 1821. You may recall that the Spanish/Mexican period was divided into two parts:

the Spanish part (1769-1821) and the Mexican Part (1821-1846). The Spanish governors in California could not grant land; only the Viceroy in Mexico City could issue grant deeds and prior to 1821 the Viceroy had granted only 20 grants of land to individuals, mostly, if not all, to retiring Spanish soldiers. But as the result of Mexico gaining its independence in 1821 and the 1834 secularization order of the missions, the Mexican governors of California between 1821-1846 had the power to issue land grants and did indeed issue at least 500 grants of former mission lands to former soldiers who had not been paid, to the administrators of the missions, and to other friends of the governors. Some historians put the Mexican land grants at higher numbers ~700 land grants and even 800 land grants. By virtue of these land grants and other incidental orders affecting crops and herds, the Mexican governors transferred the entire mission lands and the Indians remaining thereon to the Californios who were the descendants of the Spanish soldiers and settlers.



Some of these land grants were given to non-Spaniards who agreed to become Mexican citizens and Catholic converts. In present day Sacramento County there were 7 land grants, among which were New Helvetia granted to Captain John Sutter (the present day downtown Sacramento and a portion along the Sacramento River from Sacramento to present day Marysville), the Rancho San Juan (present day Orangevale, Citrus Heights, Fair Oaks, and part of Carmichael), the Rancho Del Paso (present day Antelope, Natomas, Rio Linda, Del Paso Heights, Cal-Expo, and the other part of Carmichael), the Rancho Rio de los Americanos (present day Folsom, Gold River, and Rancho Cordova), and Rancho Zanzon de los Moquelumnes (present day Elk Grove).

The Treaty of Guadalupe Hildago signed in February, 1848, by Mexico and the United States to end the Mexican War provided that Mexicans "shall be maintained and respected in the free of and." In spite of the foregoing language of the Treaty, the problem arose as to just what was the property to be protected. At the heart of the problem was that American laws required property descriptions to be exact while the Mexican land system was more lax using such phrases as "mas o menos" (more or less) after measures of distances which created uncertainty in the land grants. In addition, Mexican surveys often used natural elements such as "rocks" or "rivers" and even "trees" as boundary markers. The Mexican system required that grants, in addition to being signed by the governor, be approved by the territorial assembly and be occupied by the grantee. Many of the Mexican land grants failed to meet their own requirements.

In 1851 Congress passed the Land Act setting up a three member commission to decide the validity of all claims to land under Mexican titles. All holders of land under Mexican titles were required to file claims and had the burden of proving up their title. They could appeal the decisions of the land commission to the federal district court and a further appeal to the United States Supreme Court. The commission held its hearings in San Francisco between 1852 and 1856. Of the approximately 800 cases submitted to it, all but a few were appealed to the District Court and 99 were appealed to the Supreme Court. Ultimately 604 claims (9 million acres) were confirmed while 209 claims (4 million acres) were rejected. The average length of time required to have a claim determined (averaging the commission time and the court time) was 17 years. While the Californians waited to have their claims decided, many borrowed money and gave their property as security. Unable to pay on the loans, many Californians lost their properties through foreclosures. By the time their claims were ultimately decided, many other claimants went bankrupt with many grants passing into the hand of attorneys to pay legal fees.

Although the entire Spanish/Mexican/Mission period came to a sorry end, it continues to stand as the historical basis for the Hispanic element in our present California identity. That element is found in our people ~39% Latino, our history (1769-1846), our language in that Spanish is the unofficial second language, our place names (Los Angeles, San Francisco, Sacramento, etc.), our architecture (the mission style) and our law in that community property law comes from Spain.

(Sources: Rawls, James J. and Bean, Walton, , , ed., p.56,62-67; Lightfoot, Kent, Indians, Missionaries, And Merchants, p.249, n.19. ns. 20-21. Jackson, Robert H. and Castillo, Edward. Indians, Franciscans, and Spanish Colonization, p. 88,90-97,100.; Sandos, James A., Converting California, Indians And Franciscans In The Missions, pp.108-110; Monroy, Douglas, Thrown Among Strangers, pp.117- 125.)